

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

KENNY D. HOLMES,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:11-cv-02198-WMA-PWG
)	
GRANT CULLIVER, et al.,)	
)	
Defendants.)	


ORDER

The magistrate judge filed a report on November 10, 2011, recommending that all claims in this action, except the Eighth Amendment medical claims against defendants Hill, Murphree, Scott, Simmons and Smith, based upon the January 14, 2011, and February 8, 2011, incidents, be dismissed without prejudice for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). It was further recommended that the Eighth Amendment medical claims against Hill, Murphree, Scott, Simmons and Smith be referred to the magistrate judge for further proceedings. Although the plaintiff was advised of his right to file specific written objections within fifteen days, he has failed to respond to the report and recommendation.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and hereby is ADOPTED and the magistrate judge's recommendation is ACCEPTED. It is therefore ORDERED that all of the plaintiff's claims in this action, except the Eighth Amendment medical claims against defendants Hill, Murphree, Scott, Simmons and Smith, based upon the January 14, 2011, and February 8, 2011, incidents, are DISMISSED WITHOUT PREJUDICE for

failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). It is further ORDERED that the remaining Eighth Amendment medical claims against Hill, Murphree, Scott, Simmons and Smith are REFERRED to the magistrate judge for further proceedings.

DATED this 1st day of December, 2011.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE